

## DISTRICT OF NEVADA

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appeal. Doc. #133.<sup>1</sup> The United States filed an opposition (Doc. #134) to which Quassani replied (Doc. #135).

## I. Facts and Procedural History

On November 29, 2011, Quassani was charged in a five (5) count criminal indictment with one (1) count of conspiracy to commit mail and wire fraud in violation of 18 U.S.C. § 1349; two (2) counts of wire fraud in violation 18 U.S.C. § 1343; and two (2) counts of mail fraud in violation of 18 U.S.C. § 1341. Doc. #1. On July 10, 2013, after a jury trial, Quassani was convicted on all five counts. Doc. #89.

On January 16, 2014, Quassani was sentenced to thirty seven (37) months incarceration. *See*

<sup>1</sup> Refers to the court's docket number.

1 Doc. #127. On January 24, 2014, he appealed both his conviction and sentence. Doc. #128.

2 Thereafter, Quassani filed the present motion for bail pending appeal. Doc. #133.

## 3 **II. Discussion**

4 A defendant may be released on bail pending an appeal if the court finds by clear and  
5 convincing evidence that: (1) the defendant is not likely to flee or pose a danger to the community;  
6 and (2) the appeal raises a substantial question of law or fact likely to result in a reversal or an order  
7 for a new trial. *See* 18 U.S.C. § 3143(b)(1). A substantial question is one that is “fairly debatable.”  
8 *United States vs. Handy*, 761, F.2d 1279, 1282 (9th Cir. 1985).

9 Here, as to the first factor, the court finds that Quassani is not likely to flee or pose a danger  
10 to the community. First, Quassani’s wife and two young children reside in Nevada. Further,  
11 Quassani has no prior criminal history and was released on bond pending trial. While on pre-trial  
12 release, Quassani fully co-operated with pre-trial services and, as a result of his behavior, was  
13 granted sixty (60) days to self-surrender and get his affairs in order after sentencing. *See* Doc. #127.  
14 Finally, the court notes that the government acknowledges in its opposition that “Quassani is not a  
15 flight risk or a danger to the community.” Doc. #134, p.4. Therefore, the court finds that Quassani  
16 is not likely to flee the court’s jurisdiction and is not a threat to public safety if released pending his  
17 appeal.

18 However, as to the second factor, the court finds that Quassani has failed to show that his  
19 appeal raises a substantial question of law or fact likely to result in a reversal or order for a new  
20 trial. In his motion, Quassani alleges four separate substantial questions that he argues are likely to  
21 result in a reversal or new trial: (1) presumption that the guideline sentence was reasonable;  
22 (2) insufficient evidence to support the amount of loss enhancement; (3) failure to apply a minor  
23 role adjustment; and (4) insufficient evidence to support materiality. *See* Doc. #133. The court shall  
24 address each argument below.

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1 cmt. n.5. The determination whether to apply this adjustment “is heavily dependent upon the facts  
2 of the particular case.” *Id.* cmt. n.3.(c).

3         The court has reviewed the documents and pleadings on file in this matter and disagrees  
4 with Quassani’s interpretation of his participation in the fraudulent loan scheme that led to his  
5 conviction on five separate counts. At sentencing the court found that Quassani “was an integral  
6 part in the conspiracy” because he knowingly created false documents, including preparing and  
7 submitting a false loan application: conduct without which it would have been impossible to  
8 effectuate the scheme to defraud. Doc. #132, p.51. Moreover, Quassani worked with the other  
9 defendants to facilitate the submission of another false loan application and worked to ensure that  
10 his conduct was not detected by retaining a property manager to place renters in the properties.  
11 Based on all of Quassani’s conduct, the court properly found that he was “a primary participant in  
12 the commission of the offense.” *Id.* p.51-52. A minor role adjustment under these factual  
13 circumstances was not appropriate. Therefore, the court finds that Quassani has failed to raise a  
14 substantial question for appeal on this issue.

15         **D. Materiality**

16         Quassani’s final argument is that the government failed to prove materiality on Counts I and  
17 V of the criminal indictment. *See* Doc. #133. However, the parties stipulated at trial to the  
18 materiality of Quassani’s misrepresentations on the loan documents. A stipulation by the parties is  
19 sufficient to establish materiality as to those claims. Therefore, Quassani has failed to raise a  
20 substantial question for appeal as to this issue. Accordingly, the court finds that Quassani has failed  
21 to meet his burden to show a substantial question of law in this action likely to result in a reversal  
22 or order for new trial and the court shall deny his motion for bail pending appeal.

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1 IT IS THEREFORE ORDERED that defendant's motion for bail pending appeal  
2 (Doc. #133) is DENIED.

3 IT IS SO ORDERED.

4 DATED this 10th day of March, 2014.



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LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE